

Remarks

This Response is considered fully responsive to the Final Office Action dated August 29, 2005, and is filed in view of Examiner's Answer mailed January 16, 2007 (the "Answer") and the Advisory Action mailed July 26, 2007. Claims 1 – 34 were pending in the application. Claims 1 – 33 stand rejected. In the Examiner's Answer of August 29, 2005 claim 34 was objected to. In this Response, claims 16 – 21, 24 – 26 and 31 – 34 are cancelled. Claim 1 has been amended to include all the limitations of claim 34 to put claim 34 in independent form including all the limitations of claim 34's base claim and any intervening claims. Applicant requests that the amendments be entered, and that the claims be reconsidered.

Rejections Under 35 U.S.C. § 103

In the final Office action dated August 29, 2005, the Examiner rejected claim 1 – 10 and 13 – 34 under 35 U.S.C. § 103(a) as being purportedly unpatentable over U.S. Patent No. 6,164,872 ("Morishige") in view of U.S. Patent No. 5,722,793, ("Peterson") when considering the Federal Highway Administration report/publication "Prevention and Control of Highway Tunnel Fires", ("FHA"). In the final Office action, the Examiner rejected claims 1 – 33 under 35 U.S.C. § 103(a) as being purportedly unpatentable over United Kingdom reference 2,357,944 ("UK '944") in view of Peterson when considering any of Fischer or European reference 1,039,201 ("EU '201") or Japanese reference 9-322371 ("Japan '371").

In the Examiner's Answer to Applicant's Appeal Brief, the rejection of claim 34 was withdrawn, and claim 34 was objected to as being dependent from a rejected base claim. The Answer indicated that claim 34 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. In the Answer, the rejection of claims 8, 9, 28, and 34 as being unpatentable over Morishige in view of Peterson when considering the FHA was withdrawn.

As such, claims 1 – 7, 10, 13 – 27, and 29 – 33 remain rejected as purportedly being unpatentable over Morishige in view of Peterson when considering the FHA. Claims 1 – 33 remain rejected as being purportedly unpatentable over UK '944 in view of Peterson when considering any of Fischer or EU '201 or Japan '371. Applicant respectfully disagrees with

these rejections. However, to advance prosecution, the Applicant has amended claim 1 to include all the limitations of claim 34 (now cancelled) and any intervening claims. Applicant reserves the right to file any of the claims as they were prior to amendment or cancellation in one or more continuation or divisional patent applications.

Allowable Subject Matter

The Answer indicates that claim 34 is objected to but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claim Amendments

Independent claim 1, from which claim 34 directly depends, has been amended to include all the limitations of now-cancelled claim 34, thereby rewriting claim 34 into independent form. As such, claim 1 is believed to be allowable.

Conclusion

Claims 1 – 15, 22 – 23 and 27 – 30 are currently pending in the application. Applicant has fully responded to each and every objection and rejection in the Examiner's Answer dated January 16, 2007 and Office Action dated August 29, 2005 and believes that all of the pending claims are in a condition for allowance. Applicant therefore requests that a timely Notice of Allowance be issued in this case.

The Applicant believes no fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 50-3199 as necessary.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney. If the Examiner believes any issues could be resolved via a telephone interview, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: 14 September 2007

/Damon A. Rieth/
Damon A. Rieth Reg. No. 52,167
Attorney for Applicant
USPTO Customer No. 69693

HENSLEY KIM & HOLZER, LLC
1660 Lincoln Street, Suite 3000
Denver, Colorado 80264
Tel: 720-377-0770
Fax: 720-377-0777